



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
841 Chestnut Building  
Philadelphia, Pennsylvania 19107-4431

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

NOV 18 1994

Mr. Daniel J. McCarty, President  
The William Underwood Company  
400 South 4th Street  
St. Louis, MO 63102

Re: DOVER GAS LIGHT SITE: Notice of Potential Liability.  
("General Notice")/"Special Notice" for Negoti-  
ations for Remedial Design & Remedial Action/  
Demand for Payment of Costs

Dear Mr. McCarty:

This letter notifies you that The William Underwood Company ["Underwood"] may incur, and/or may have incurred, liability under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ["CERCLA"], 42 U.S.C. § 9607, with respect to the Dover Gas Light Site ["Site"]. This letter additionally notifies you of the means by which Underwood may resolve its liability with respect to certain response actions selected for the Site.

INTRODUCTION

The Superfund Law

CERCLA, more commonly known as Superfund, was originally enacted in 1980. CERCLA has several key objectives, including setting priorities for cleanup of the worst hazardous sites in the country and identifying the parties potentially responsible for investigating, cleaning up, and/or paying the costs of cleaning up such hazardous sites. These parties are referred to as "potentially responsible parties" or "PRPs."

PRPs under CERCLA include: 1) current owners and operators of the site; 2) owners and operators of the site at the time hazardous substances were disposed; 3) persons who arranged for disposal or treatment of hazardous substances sent to the site; and 4) persons who accepted hazardous substances for transport to the site, and who selected the site for disposal. These categories are set forth in section 107 of CERCLA, 42 U.S.C. § 9607.

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Under CERCLA, the Environmental Protection Agency ["EPA" or "Agency"] may order PRPs to perform response actions deemed necessary by EPA to protect the public health, welfare, or the environment. Additionally, PRPs may be liable for all costs incurred by the government in responding to any release or threatened release of hazardous substances, pollutants or contaminants at the Site pursuant to sections 104 and 107(a) of CERCLA, 42 U.S.C. §§ 9604 and 9607(a); the Resource Conservation and Recovery Act ["RCRA"], as amended, 42 U.S.C. §§ 6901 et seq.; and other laws. Such actions and costs may include, but are not limited to, expenditures for conducting a Remedial Investigation/Feasibility Study ["RI/FS"], conducting a Remedial Design/Remedial Action ["RD/RA"], and other investigation, planning, response, oversight, and enforcement activities related to the Site. In addition, PRPs may be required to pay for damages for injury to, destruction of, or loss of natural resources, including the cost of assessing the amount or extent of such injury related to a site.

#### Response Actions Undertaken

EPA has conducted and overseen response activities pursuant to CERCLA in connection with the Site. These response actions include, but are not limited to, the following:

- On October 4, 1989, EPA placed the Site on the National Priorities List ["NPL"], a list of the most serious uncontrolled or abandoned sites at which releases of hazardous substances have occurred or may occur.
- On January 31, 1994, an RI/FS was completed in which the nature and extent of contamination at the Site was studied and remedial alternatives developed for evaluation.
- On August 16, 1994, EPA selected remedial action for implementation at the Site.

EPA may expend additional funds for response activities at the Site under the authority of CERCLA and other laws.

#### Purpose of This Letter

EPA is now contacting you in an attempt to resolve Underwood's liability with respect to certain response actions at the Site. Toward that end, this letter contains:

1. A formal notification of Underwood's potential liability with respect to the Site;
2. A formal demand for reimbursement of costs that have been paid (including interest thereon) and that are to

be paid (which are subject to interest) in conducting and/or overseeing response actions at the Site (Demand for Payment);

3. Notification that a limited period of formal negotiations for an agreement under which Underwood will implement the requirements of the ROD which begins with your receipt of this letter (Special Notice);
4. General and site-specific information to assist you in these negotiations; and
5. A proposed consent decree, and proposed administrative consent order, as described below.

#### **NOTIFICATION OF POTENTIAL LIABILITY**

EPA has evaluated information in connection with its investigation of the Site. Based on this information, EPA believes that Underwood may be a PRP for this Site (see Introduction, above, for a discussion of PRPs). Specifically, based on State and Federal records and/or other information, EPA has information indicating that Underwood is a former owner and operator, as the successor corporation to the Richardson & Robbins Co., at the time of disposal of hazardous substances. Alden B. Richardson and James Robbins were owners of the former coal gas plant at the Site. The manufacturing of gas produced polynuclear aromatic hydrocarbon ["PAH"] compounds that have contaminated the Site.

As a PRP, Underwood may be asked or required to perform response actions and/or reimburse the government for response actions conducted using Federal funds (see Introduction, above, for details explaining EPA's options under CERCLA). EPA encourages Underwood to perform or to finance voluntarily those response activities that EPA determines to be necessary at the Site.

#### **DEMAND FOR PAYMENT**

As of July 10, 1993, EPA has incurred and paid costs in excess of \$119,488.37 for response activities related to the Site. Although this figure may not include all applicable costs incurred and paid to date, the figure represents EPA's most recent calculation. Furthermore, additional costs, including oversight and related enforcement costs may continue to be incurred.

By this letter, EPA demands that Underwood reimburse the Agency for past costs of at least \$119,488.37, plus pre-judgment

interest. Failure to pay, or delay in payment, may subject Underwood to liability for increased costs associated with these past costs including, but not limited to, interest and enforcement costs. Interest on amounts recoverable begins to accrue as of the date of receipt of this letter as provided by section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

You may contact the following person to arrange for payment of the above-described costs:

Patricia C. Miller  
Senior Assistant Regional Counsel (3RC22)  
U.S. Environmental Protection Agency  
841 Chestnut Building  
Philadelphia, PA 19107  
(215) 597-3440

#### **SPECIAL NOTICE NEGOTIATIONS MORATORIUM**

EPA has determined that use of the "special notice" procedures specified in section 122 of CERCLA, 42 U.S.C. § 9622, will facilitate a settlement between EPA and Underwood for implementation of this remedial action at the Site. Therefore, pursuant to that section, your receipt of this letter triggers a sixty (60) day moratorium on certain EPA response activities at the Site. During this sixty (60) day period, Underwood is invited to submit a good faith proposal (defined below) to conduct and/or finance such remedial action and negotiate a consent decree (described below) under which Underwood will perform such work. If EPA determines that such a good faith offer has been timely received, the Agency will provide an additional sixty (60) days to finalize the consent decree. When approved by EPA and the United States Department of Justice, the consent decree will then be filed in Federal district court.

EPA encourages Underwood's participation by submitting a good faith proposal as defined below.

#### **Good Faith Proposal**

A good faith proposal to conduct or finance the remedial action is a written proposal that demonstrates Underwood's qualifications and willingness to perform such work and includes each of the following elements:

1. A statement of willingness and financial ability by Underwood to implement the requirements of the ROD and proposed consent decree;
2. A demonstration of Underwood's technical capability to conduct the work, including the identification of the

firm(s) Underwood intends to retain to conduct all or portions of such work or a description of the process you will use to select the firm(s);

3. A statement of Underwood's willingness and ability to reimburse EPA for costs incurred in overseeing the performance of the work as well as EPA's past costs, plus pre-judgement interest (as described above);
4. Comments, if any, on the proposed consent decree and on the proposed administrative order (see below);
5. The name, address, telephone, and telefax number (if any) of the person(s) who will represent Underwood in negotiations for a consent decree.

#### Consent Decree

Section 122(d)(1)(A) of CERCLA, 42 U.S.C. § 9622(d)(1)(A), requires that settlements for remedial action be entered in the appropriate Federal district court in the form of a consent decree. Enclosed with this letter you will find a site-specific draft of EPA's model consent decree. This model provides boilerplate language for most provisions in order to standardize CERCLA consent decrees as much as possible and expedite CERCLA settlements. The United States will commence negotiations with a document containing language which, for the most part, is the same language the government will expect in a final settlement because it reflects legal and procedural terms that have been found acceptable to both EPA and the regulated community in a large number of situations. Your decision to submit a good faith proposal to perform the work should be made with the understanding that the terms appearing in the draft consent decree are substantially the terms which EPA expects to appear in the final settlement.

Also enclosed find a proposed administrative consent order ("Order") which provides that Underwood will commence remedial design activities upon the effective date of the Order. The Order need not be entered in Federal district court and will enable Underwood to commence design activities prior to entry of the remedial action consent decree. The Order will remain in effect until the consent decree is entered. EPA encourages Underwood to enter into such an Order.

#### PRP Steering Committee

EPA encourages good-faith negotiations between Underwood and EPA and between Underwood and other potentially responsible parties ["PRPs"]. To facilitate these negotiations, EPA has enclosed a list of other PRPs to whom this notification has been sent. Inclusion on, or exclusion from, this list does not

constitute a final determination by EPA concerning the liability of any party with respect to the Site.

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Establishing a manageable group is very important for successful negotiations with EPA.

**PRP Response/EPA Contact Person**

Underwood is encouraged to contact EPA as soon as possible to state its willingness to participate in negotiations relating to the Site. Specifically, Underwood has sixty (60) calendar days from receipt of this letter to provide EPA with a written proposal as described above. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that Underwood does not wish to negotiate a resolution of its liabilities in this matter and that Underwood has declined any involvement in performing the response activities described above. In such event, EPA may, among other things, issue an administrative order directing Underwood to perform the response action; seek to file an action in Federal district court to obtain a court order directing Underwood to perform the response action; and/or perform such response action and seek reimbursement from liable parties.

If a proposal is submitted which EPA determines is not a good faith offer, you will be notified in writing of EPA's decision to end the negotiations moratorium and the reasons therefor. Underwood may be liable for performing the response action pursuant to a unilateral administrative order or court order and/or reimbursing EPA for the cost of response actions performed by EPA.

Your response to this letter, including written proposals to perform the remedial action selected for the Site, should be sent to:

Randy Sturgeon (3HW42)  
Remedial Project Manager  
U.S. Environmental Protection Agency  
841 Chestnut Building  
Philadelphia, PA 19107  
(215) 597-0978

**ADMINISTRATIVE RECORD**

Pursuant to section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA has established an administrative record which contains documents forming the basis of EPA's selection of response action

for the Site. The administrative record file is available to the public for inspection and comment. You may wish to review the administrative record to assist you in responding to this letter, but your review should not delay such response. Copies of the file are located both at the EPA Region III office and:

State Library of Delaware  
43 South DuPont Highway  
Dover, DE 19901  
(302) 739-4748

Dover Public Library  
45 South State Street  
Dover, DE 19901  
(302) 736-7030

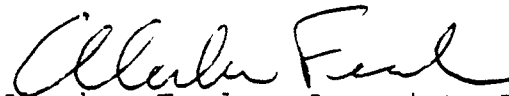
EPA will consider comments received, if any, after the close of the comment period in accordance with 40 C.F.R. § 300.825.

Note that this letter may pertain to one of several operable units requiring response at the Site. Unless otherwise specified herein, this letter does not apply to any other operable unit at the Site or any other site.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

If you have any questions pertaining to this matter, please direct them to Patricia C. Miller, Senior Assistant Regional Counsel, at (215) 597-3440.

Sincerely,



Abraham Ferdas, Associate Division  
Director for Superfund Programs

cc: Robert Kuehl (DNREC)  
Steve Johnson (DNREC)  
Jill Fallon (DOI)  
Mark Barash (DOI)  
Kirsten Erickson (NOAA)  
Patricia C. Miller (EPA)

Enclosure: Draft Consent Decree  
Draft Administrative Order on Consent  
for Remedial Design  
List of PRPs

**List of Potentially Responsible Parties (PRPs)  
Dover Gas Light Superfund Site**

Mr. R.J. Adkins, President  
Chesapeake Utilities Corporation  
861 Silver Lake Blvd.  
Dover, DE 19904

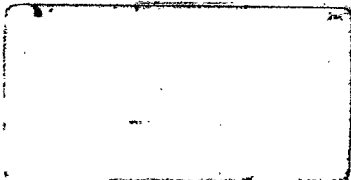
Secretary Edward Freel  
State of Delaware  
Department of State  
P.O. Box 1401  
Dover, DE 19903

Mr. Stuart Outten  
Capitol Cleaners & Launderers, Inc.  
195 Commerce Way  
Enterprise Business Park  
Dover, DE 19903

Mr. Daniel J. McCarty, President  
The William Underwood Company  
400 South 4th Street  
St. Louis, MO 63102

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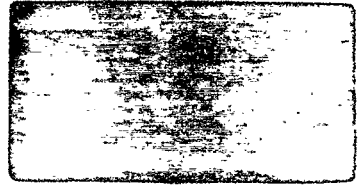
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ST. LOUIS, MO 63102	
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Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
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PS Form 3800, June 1991





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Article Addressed to:

MR. DANIEL J. MCCARTY, PRESIDENT  
THE WILLIAM UNDERWOOD COMPANY  
400 SOUTH 4th STREET  
ST. LOUIS, MO 63102

Signature (Addressee)

Signature (Agent)

PS Form 3811 December 1991 \*U.S. GPO: 1992-323-402

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7. Date NOV 25 1994  
8. Addressee's Address (Only if requested and fee is paid)

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DOMESTIC RETURN RECEIPT

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